

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket 94-102
to Ensure Compatibility with Enhanced)	
911 Emergency Calling Systems)	

To: The Commission

**COMMENTS OF APCO
IN RESPONSE TO
SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following comments in response to the *Report and Order* ("R&O") and *Second Further Notice of Proposed Rulemaking* ("Second FNPRM"), FCC 03-290, released December 1, 2003, in the above-captioned proceeding regarding integration of Enhanced 9-1-1 ("E9-1-1") into the Ancillary Terrestrial Component ("ATC") of Mobile Satellite Service ("MSS"), MSS carriers' reporting and recordkeeping requirements, and the provision of E9-1-1 for Multi-Line Telephone Systems ("MLTS").¹

APCO is the nation's oldest and largest public safety communications organization. Founded in 1935, APCO has over 16,000 members, most of whom are state or local government personnel who manage and operate communications systems for police, fire, EMS and other public safety agencies. APCO has been an active participant throughout this ten-year-old proceeding, focusing on the operational

¹ *Second FNPRM* at ¶¶107-117.

requirements of Public Safety Answering Points (“PSAP”) and emergency personnel to respond quickly and accurately to 9-1-1 calls.

ATC and MSS Issues

We agree with the Commission that 9-1-1 calls from the ATC of a MSS system should be required to provide the same E9-1-1 services as terrestrial CMRS providers.² The Commission correctly recognizes that ATC systems should be designed now with these E9-1-1 requirements in mind, so as to avoid the retrofitting problems that many CMRS providers faced in their E9-1-1 deployment. In particular, we see no reason why ATC would not be able to meet the accuracy requirements contained in Section 20.18, especially knowing those requirements prior to system and equipment design.

The Commission requires MSS carriers to establish 9-1-1 call centers for satellite calls. We support the Commission’s recommendations that MSS carriers provide timely reports of their progress in establishing such call centers, and recommend that post-deployment reports, such as those proposed in the Second FNPRM, be required and submitted to the Commission for review and public inspection.³

MLTS Issues

The problem of providing E9-1-1 for MLTS is not new. Ten years ago, in the original *Notice of Proposed Rulemaking* in this proceeding, the Commission sought comment on proposed rules recommended by APCO and others.⁴ There, the Commission recognized the serious problem posed by PBXs, and other MLTS, especially those

² *Second FNPRM* at ¶110.

³ *Id.* at ¶¶111-112.

⁴ *Notice of Proposed Rulemaking*, CC Docket 94-102, 9 FCC Rcd 6170 (1994).

serving widely separated physical locations. For example, bank branches are often on a common PBX, with the home office address/call-back number being the only information that is delivered to the PSAP with a 9-1-1 call from any branch. Many schools districts, corporate campuses, large office buildings, hotels, and apartment buildings are at similar risk.⁵ Without precise location information, 9-1-1 calls can be misrouted and/or emergency responders can be sent to the wrong location.

In 1997, APCO and NENA joined with other affected parties to forge a regulatory approach to require owners of certain MLTS to meet specified E9-1-1 requirements.⁶ The compromise proposal was submitted to the Commission, where it languished. In the meantime, some MLTS owners have voluntarily installed readily available E9-1-1 technologies to protect their employees, and a few states have adopted MLTS/E9-1-1 legislation, in some cases based upon model legislation supported by APCO and NENA and their state chapters. In 2002, the Commission re-opened the issue and sought comments on its potential role in addressing the MLTS/E9-1-1 problem.⁷ Unfortunately, the Commission concluded in the *R&O* that, at least for now, it should defer to the states and merely encourage them to adopt legislation to deal with problem.⁸

The Commission has recognized in this proceeding that Congress has given it broad authority to deal with public safety concerns in wire and radio communications,⁹

⁵ Hopefully industry sources will provide the information requested in the *Second FNPRM* regarding the extent of MLTS deployment. We look forward to reviewing that information in our reply comments.

⁶ See *R&O* at note 198.

⁷ *Further NPRM*, 17 FCC Rcd 25576 (2002).

⁸ *R&O* at ¶¶ 49-63.

⁹ *R&O* at ¶13.

which we believe includes the adoption of MLTS/E9-1-1 regulation. The Commission's legal authority is rooted in Section 1 of the Communications Act of 1934, as amended, defining the Commission's responsibility to promote "the safety of life and property through the use of wire and radio communication."¹⁰ More recently, Congress adopted the Wireless and Public Safety Communications Act of 1999, the stated purpose of which is to

encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous and reliable end-to-end infrastructure for communications, including wireless communications, to meet the Nation's public safety and other communications needs.¹¹

Section 3 of the 1999 Act ordered the Commission to "designate 9-1-1 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance." The designation expressly covered "both wireline and wireless telephone service."¹² The Commission's recent "broadcast flag" decision also provides further support for its jurisdiction over certain equipment used in the provision of wire and radio communication.¹³ Therefore, the Commission should, and can do more. It has the authority to adopt nationwide E9-1-1 rules, and has not been shy about doing so in the related context of CMRS.

In the current regulatory vacuum, APCO has supported efforts to address MLTS/E9-1-1 issues at the state level, and has joined with NENA in recommending model state legislation. However, we fear that many states will not act in a timely

¹⁰ 47 USC §151.

¹¹ Public Law 106-81, Section 2(b).

¹² Section 3 is codified at 47 U.S.C. §251(e)(3).

¹³ See Attachment to *ex parte* letter from APCO, dated November 7, 2003, Docket 94-102.

manner, if at all, and that the result will be a patchwork of potentially inconsistent state regulation. That will leave substantial portions of the public unprotected, and create a potentially chaotic situation for equipment and service providers. Federal regulation of MLTS/E9-1-1 would extend the same E9-1-1 protection to all, while also providing economies of scale to promote more cost-efficient and effective deployment.

CONCLUSION

We are pleased that the Commission has urged states to adopt model legislation proposed by APCO and NENA.¹⁴ However, we believe that the Commission needs to do more and has the authority to do so. Absent rapid action in all 50 states, much of the public will remain at risk if they rely upon 9-1-1 calls made through a MLTS. We urge the Commission to revisit this issue soon, and to adopt uniform, effective MLTS/9-1-1 regulations to protect the safety and property.

Respectfully submitted,

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¹⁴ *R&O* at ¶59.